

*Nays.* Senators, Bourland, Hogg, Jewett, McNeel, Robinson, Williams and Wood—7.

Carried.

Senator Phillips offered the following amendment.

*Sec. —. Be it further enacted,* That the Attorney General shall reside and keep his office at the seat of Government.

Carried and bill passed to 3rd reading.

Resolution relative to the appointment of a Joint committee, to prepare a bill for the settlement of all unsettled business of the Republic of Texas:

Laid on the table.

Senator McKinney moved to take up a bill to classify the liabilities of the Republic of Texas.

*Yeas.* Senators, Burleson, Grimes, Hogg, McKinney and Navarro—5.

*Nays.* Senators, Bourland, Brashear, Jewett, McNeel, Miller, Robinson, Wallace, Williams and Williamson—9.

Lost.

Senate adjourned, until 9 o'clock A. M. to-morrow.

SENATE CHAMBER, }  
TUESDAY, April 28, 1846. }  
9 o'clock A. M.

Senate met, pursuant to adjournment—roll called, and a quorum present.

Journals of the preceding day, read and adopted.

Senator Hogg, chairman of the Judiciary committee, reported a bill to organize, Justices' Courts, which was read 1st time, also,

A bill to fix the time of holding elections for members of Congress, without amendments.

Senator Williams, chairman of the committee on Public Lands, reported a bill to authorize the Commissioner of the General Land Office to issue a patent to Joseph McGee, back without amendments; also,

A bill for the relief of John Karner without amendments.

Report adopted and bill passed to 3rd reading.

Senator Hogg, in behalf of the majority of the Judiciary committee, made a report dissenting from Senator Phillips' re-

port on the bill legalizing certain surveys made by the surveyor of Bastrop county, in the county of Bexar, which was ordered to be spread on the journals at the proper place.

## REPORT

Of the majority of the Judiciary committee; relative to the report made by the minority of said committee, in relation to a bill to legalize certain surveys in Bexar county, made by the surveyor of Bastrop county.

*To the Honorable Edward Burleson,  
President pro tem. of the Senate:*

The "substitute for a bill to legalize certain surveys in Bexar county made by the surveyor of Bastrop county," with an adopted proviso to the same, having been referred to the committee on the Judiciary, after having been examined in reference to the rights of all the parties in interest, was reported back to the Senate with a brief recommendation of it, for passage. The operative part is in the following words:

"SEC. 1. *Be it enacted by the Legislature of the State of Texas,* That all locations and surveys of land made by the Surveyor of Bastrop county, which proved to be in the county of Bexar, by the running of the county line between said counties of Bastrop and Bexar, which have not been located and surveyed by the surveyor of Bexar county, be, and the same are hereby declared valid; *Provided always,* that said locations and surveys do not conflict with others made in conformity with the law by the surveyors of Bexar county before the passage of this act, and that the county surveyor of Bexar county be, and he is hereby authorized and required, upon application of persons interested, to map said surveys, and that the Commissioner of the General Land Office be, and he is authorized and required to patent the same."

"SEC. 2. *Be it further enacted,* That this act take effect and be in force from and after its passage."

The committee kept this bill under consideration for some time, hoping that all the inducements for, and all the objections to its passage, would be communicated, and that they would be enabled to report conformably to the rules of the Senate, and in apparent accordance with parliamentary usage, as exemplified in some of the United States; but that an elaborate disquisition upon the bill should be embodied in their report, they did not know, until upon a subsequent occasion their minds

were illuminated by the corruscant effusion of the minority, to whose acrimonious censure they had rendered themselves obnoxious; for he charges, that they recommended the passage of the bill without an argument, or even an apology, and without offering an excuse. Though good seldom proceeds from ill, they offer in palliation of their acknowledged guilt, the great benefits likely to emanate from the publication of the minority's lucid exposition of the *illegality of the law*; and they would here ask leave to state, that since their well merited castigation, they have felt that the minority is "a great man," and consequently that to vindicate themselves against him, is a duty not to be neglected, though his powers in assailing the committee may be compared to that of Sampson among the Philistines. He says "the argument in committee assumed two positions, to neither of which can he agree: first, that a location of land that lay in Bexar county, by application to a surveyor of San Augustine county, would originate an equity right to land in Bexar county; second, that a legal location in the proper county, without an actual survey, would originate no right," also, that "the broad ground is assumed, that the first survey should hold the land without regard to legality of location, or any rights that may have accrued under it."—These ascriptions made by him to the majority, are portions of the "man of straw" which he built up to battle against, and which he facetiously calls the committee; but the veritable majority disclaim the paternity, and feel satisfied with the honor which his versatile talent would reflect upon them. Indeed, they aspire not to fame that could be acquired only by a Munchausen, a Gulliver, or some *other gentleman* of peculiar erratic fancy; and with profound acknowledgments for the magnanimous tender on his part, they restore his property, having no use for it.

He also says, the report "implies great confidence in the influence of committee recommendation," and "extraordinary reliance on the implicit faith of Senators," and that "it has placed the *onus on him* of proving a negative," which though unreasonable, is no very difficult task."

The majority did not attempt to demonstrate the absolute correctness of any position, nor did they hope by a formidable array of preposterous absurdities, arranged for the occasion, and subject to instant demolition, to be elevated to the standing of a hero or a sage; but they did rely with implicit faith on Senators, and will never insult the sense of such senators by presumptuously endeavoring to *prove a negative* in the pres-

ence of any astute logician who conceives that doing so "is no very difficult task." But why should the *onus* of proving a *negative* have been placed on the minority alone, of all the Senate? Because this was a part of his man of straw, and because *he* did *not* rely with implicit faith on Senators; and further, because he concurred with the majority in this opinion at least, that he surely is a great dialectician.

He says the bill "proposes in its caption to legalize what is acknowledged to have been illegal." This acknowledgment is a mere gratuity from him to the majority; it is the head of his man of straw whom he decapitates and calls *committee*.—The majority discriminated between what was *forbidden* by law, and that relative to which there was no legislative inhibition. Bexar county was not separated from Bastrop county by *either* a natural or an artificial boundary; between the settlements of these counties, there was a scope of uninhabited territory; a portion of this, it was supposed by the citizens of each, was included in Bastrop county. The surveyor of Bastrop (who was the proper person) was employed to survey in it—he did so; the holders of claims to land, had the right to locate them upon any vacant public domain, and to have surveys made corresponding to the several amounts of each, by the county surveyor of the county in which the land was situated; two years after these surveys had been made, the boundary line between said counties was marked, and it was then ascertained that these surveys were actually in Bexar county, and not in Bastrop, as had been supposed by all. Subsequently thereto, the surveyor of Bexar was engaged to re-survey some of the same surveys for other persons than the original claimants. The present boundary line is said to be incorrect, and it is contended that the territory in dispute is in fact in Bastrop county, and the re-locations are thought to be at least as defective as some contend the first were; the land was vacant public domain; the claimants had the right to locate parts of it; they did so; they had the right to have it surveyed by the county surveyor; it is said that they did; having done these things, the committee thought their rights were too strong and conclusive to be esteemed mere nullities, and they recommended the passage of the forgoing bill. There seemed to be but the one defect in these rights, and that was suspended by a doubt which the committee could not remove, though it was greatly diminished by the statements made to them. It may be added also, that in their opinion, should a location and survey be made now on vacant land by any person, upon the Bexar side of this

boundary line, he would thereby acquire so strong a right to the land, that no one by virtue of a subsequent location and survey could oust him, though upon the running of a correct boundary, the land last alluded to should be included in Bastrop county.— The only difference between this case and those to be embraced by the bill, is that in this case the *supposed* boundary is artificial and marked, and in the other it is imaginary and unmarked, but still it is the *supposed* boundary. The question of boundary is not approached by the bill, but is left entirely subject to future adjustment by the counties interested. The minority urges as a still farther objection to the report of the majority, that the investigation in committee was *ex-parte*; and that the Legislature, by adopting the report, assumed the exercise of judicial functions, and thus converted itself into a tribunal to try rights. How far so wild a declaration comports with the facts may be readily perceived by adverting to the bill, and the discrepancy serves to prove that man does not, as has been affirmed in England, depreciate on the western hemisphere; for though Sweden had her Charles, and Corsica her Napoleon, the United States had their Washington, and Texas, still farther west, has her *minority* of the committee. And although the majority writhe under the castigation inflicted upon them, they content themselves by saying they “have seen the elephant.” The minority of the committee is an efficient and highly esteemed member, and when this bill was under consideration, his objection to it was urged with his usual ability; but the position which he assumes in his report, how skilfully soever it may have been maintained, imparted to him an aspect in that document so essentially different from that worn by him on the former occasion, that he was not more recognizable to the majority, than Rip Van Winkle was to the crowd, when he returned to the city after his *nap* on the Catskill.

He says, “deprive the bill of all retroaction, and what is now *urged* with so much anxiety, and by such strong appeals to our sympathy,” &c. How does this tally with his declarations that the committee made not a *single comment* or *argument* or even apology? The answer is direct—*not well*—but it is evident that the minority was *mistaken*, or that he possesses extraordinary redundancy of imagination.

He says the bill “is retrospective in the sense of impairing the obligations of contracts, as well as retroactive,” that “*his amendment was resisted on the very ground that no respect should be paid to locations simply*,” he also says, “the committee assumed two positions, to neither of which can he agree: first,

that a *location* of land that lay in Bexar county, by application to a surveyor of San Augustine county, would originate an equity right to land in Bexar county." This apparent contradiction is susceptible of explanation: his imagination is fruitful and strong, and overcomes his memory, which is moderately feeble and delicately convenient.

He states that "if what is proposed by the bill *cannot be done at all*, it cannot be done by the present bill, nor by the bill however it may be amended." The majority had doubted the practicability of removing *all* the objections to the bill, but had this demonstration of a negative proposition been presented to them, they would have been convinced that Euclid himself could not have proven better, that *what could not be done at all*, could not be done *by the bill*. Should this specimen of logic be exhibited in the literary world, it will doubtless excite no less astonishment than did the writing on the wall of Belshazzar's banquet-hall, to the master of the feast; but it should be accompanied with a *synopsis*, and a metaphysical disquisition on the difference between tweedle-dum and tweedle-dee, otherwise it may not serve as a political cynosure to future generations, or as an infallible guide to committees where they wish to avoid recommending *illegal laws*.

GEO. T. WOOD,  
H. J. JEWETT,  
WM. M. WILLIAMS,  
B. R. WALLACE,  
JOS. L. HOGG.

A message was received from the House, informing the Senate, that the House had passed a substitute for the Senate's bill supplementary to an act creating the county of Panola.

Senator McNeel, chairman of the committee on Enrolled Bills, reported the correct enrollment of the following bills.

An act requiring the Governor to notify Chief Justices of counties, of the appointment of Notaries Public, and to have the same published.

An act to provide for the organization of the counties of San Patricio and Nueces.

And after being signed by the Speaker of the House of Representatives and President *pro tem.* of the Senate, were this day presented to the Governor for his approval.

Senator Miller introduced a bill to prevent the sale of ardent spirits to slaves; read 1st time.

## ORDERS OF THE DAY.

A bill to establish a General Land Office for the State of Texas.

Senator Navarro moved to strike out "joint vote of both Houses of the Legislature" and insert "appointed by the Governor and confirmed by the Senate."

Division of the question called for and carried, and "joint vote of both Houses" stricken out.

Yeas and nays called for on filling the blank with "appointed by the Governor and confirmed by the Senate."

Yeas. Senators, Grimes, McKinney, McNeel, Navarro and Williamson--5.

Nays. Senators, Bagby, Bourland, Brashear, Burleson, Hogg, Jewett, Miller, Parker, Robinson, Wallace and Williams--12.

Lost.

Senator Parker moved to fill the blank with "elected by the qualified electors."

Yeas and nays called for.

Yeas. Senators, Bagby, Bourland, Brashear, Burleson, Hogg, McKinney, McNeel, Miller, Navarro, Parker, Robinson, Wallace, Williams, Williamson and Wood--15.

Nays. Senators, Grimes, Jewett and Phillips--3.

Carried.

Senator Hogg offered the following amendment:

And that the election be holden on the 2nd Monday in July next, throughout the State, under the rules and regulations prescribed by law.

Adopted.

Senator Brashear moved to insert "not more than eight assistant Clerks."

Carried.

Yeas and nays on the engrossment of the bill, stood thus:

Yeas. Senators, Bagby, Bourland, Brashear, Burleson, Grimes, Jewett, Hogg, McKinney, McNeel, Miller, Parker, Phillips, Robinson, Wallace, Williams, Williamson and Wood--17:

Nays. Senator, Navarro--1.

Carried.

A bill to incorporate the La Yaca, Guadalupe and San Saba Rail-road Company.

Amendments reported by Select committee adopted, and yeas and nays on the engrossment of the bill stood thus:

*Yeas.* Senators, Bagby, Hogg, Jewett, McKinney, Miller, Navarro, Parker, Phillips, Robinson, Wallace, Williams, Williamson and Wood—13.

*Nays.* Senators, Grimes and McNeel—2.

Carried.

Bill to provide for raising a jury fund; passed to 3rd reading.

Bill requiring the county Treasurer of Paschal county to pay over all moneys remaining in his hands, on the abolishment of his office as county Treasurer.

Passed to 3rd reading.

Bill to authorize the Comptroller to settle the accounts of Hugh S. Hope, late Sheriff of Harrison county.

Referred to Judiciary committee.

Bill to make provision for public education; referred to committee on Education.

Bill to prescribe the duties and powers of the Commissioners appointed to locate the county seats of Panola and Upshur counties.

Passed to 3rd reading.

Bill to authorize the Governor to procure and have copied for the benefit of the several counties of the State, a full set of weights and measures, &c.

Passed to 3rd reading.

Bill to authorize the construction of a turnpike road from Houston to Brenham.

Referred to a select committee composed of Senators, Brashcar, Grimes and Jewett.

Bill to provide for running and marking the boundaries of the counties of Panola and Upshur.

Laid on the table.

A bill to apportion the liabilities of Houston county, between said county and the county of Anderson.

Read 3rd time and passed.

A bill defining the duties of Attorney General; read 3rd time.

Senator Jewett offered the following amendment.

Add to section — "and it shall be the duty of the Attorney General to appear and defend the interests of the State, in any suit now pending or which may hereafter be instituted in the District Courts, by Empresarios, for the settlement of their claims.

Adopted.

Senator Jewett moved to strike out 14th section. Lost.



Senator Jewett moved to strike out 15th section ; lost, and bill passed.

A bill for the relief of Thomas Anderson ; laid on the table.

A bill to authorize the Governor to appoint a private secretary.

Senator Grimes offered the following amendment.

Insert "for three months after the session of the Legislature.

Lost.

Senator McKinney offered to amend by inserting "for one month after the session of the Legislature."

Carried.

Senator Navarro offered the following amendment :

Strike out "appointed by the Governor" and insert "elected by the qualified electors."

Lost, and bill ordered to be engrossed.

A bill providing for marking the boundary lines of new counties.

Senator Phillips moved to strike out "§3" and insert "§2."

Carried and bill ordered to be engrossed.

Senator McNeel chairman of the committee on Engrossed and Enrolled bills, reported the following as correctly enrolled.

A bill for the regulation of Wreck Masters.

A bill defining the mode of conveying property in which the wife has an interest.

A joint resolution prescribing the mode of notifying the Governor when a bill creating a private corporation has constitutionally passed both houses of the Legislature.

A joint resolution to authorize E. G. Rector to sell his donation claim for 640 acres of land.

And after being signed by the Speaker of the House and President *pro tem.* of the Senate, were this day presented to the Governor for his approval.

Also the following bills, as correctly engrossed.

A bill to repeal an act additional to an act to regulate the proceedings in civil suits approved 5th February, 1840.

A bill to prevent slaves from hiring their own time.

A bill defining the time of holding the Courts in the several judicial districts; read 2nd time.

Senator Jewett offered the following amendment.

SEC. 9. All process heretofore returnable to the regular terms of the District Courts, shall be returnable to the terms hereinbefore prescribed.

Adopted, and bill ordered to be engrossed.

A bill providing how the new counties made by this Legislature out of the territory of Nacogdoches county, shall pay a portion of the debt due by said county; read 2nd time.

Senator Wallace offered the following amendment.

Add to 1st section; *Provided*, That all taxes due and owing by the citizens of said counties to the county of Nacogdoches, shall be paid to the respective counties in which such persons may reside at the time of the passage of this act.

Adopted, and bill passed to 3rd reading.

Bill to provide for marking the boundary line of Anderson county; laid on the table.

Bill to incorporate the city of Austin; referred to Judiciary committee.

Bill to incorporate the town of New Braunfels; referred to Judiciary committee.

Bill requiring the Commissioner of the General Land Office to issue patents in the name and by the authority of the State of Texas; read 1st time.

Senator Hogg introduced a bill providing for the payment of Commissioners appointed by the several acts passed creating new counties, where no such provision has been made; read 1st time.

Senator Bourland offered the following resolution:

*Resolved*, That the committee appointed to destroy the seals of the late Republic, be instructed to ascertain and report to the Senate the number of blank patents now in the General Land Office, signed by the Ex-President, and how many of said patents have been filled up and issued since the 16th day of February, 1846.

Adopted.

Senator Grimes presented the petition of S. Lusk, praying the passage of a bill requiring the Commissioner of the General Land Office to issue him a patent.

Referred to committee on Public Lands.

Bill to incorporate the Colorado and Wilson creek Rail-road company, was taken up and referred to committee on Internal Improvements.

Senate adjourned until to morrow at nine o'clock, A. M.